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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,981	03/08/2002	Marvin S Schwartz	214255605002	4846
7590 12/19/2006 David B Cochran Jones Day Reavis & Pogue North Point 901 Lakeside Avenue Cleveland, OH 44114			EXAMINER COBANOGLU, DILEK B	
			ART UNIT	PAPER NUMBER
			3626	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/19/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,981	<b>Applicant(s)</b> SCHWARTZ ET AL.	
	<b>Examiner</b> Dilek B. Cobanoglu	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/08/2002</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This communication is in response to the amendment received on 09/28/2006.

Claims 1-21 have been cancelled, and claims 22-50 are added.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22-24, 26-27, 34, 35, 37-40, 43-46 and 49 are rejected under 35 U.S.C. 102(b) as being unpatentable by Lavin et al. (hereinafter Lavin) (U.S. Patent No. 5,772,585).

A. As per new claim 22, Lavin discloses a computer implemented medical record system, comprising:

- i. a graphical user interface including first, second and third screens organized into a subjective, objective, assessment, and plan (SOAP) format (Lavin; col. 2, lines 39-51, col. 5, lines 48-56, col. 9, lines 30-35);
- ii. the first screen being operative to accept data input relating to summary data, the summary data including patient vital signs, patient history, patient complaint, patient allergies, patient medications, and patient problem data (Lavin; col. 8, lines 42-58, fig. 12);

iii. the second screen being operative to accept data input relating to patient history and physical examination data (Lavin; col. 8, lines 9-38, fig. 11); and

iv. the third screen being operative to accept data input relating to order entry data, the order entry data being determined by a user of the system by referencing the summary data and the history and physical examination data (Lavin; col. 2, lines 52-64, col. 9, lines 20-29).

B. As per new claim 23, Lavin discloses the system of claim 22, further comprising a plurality of visit outlines selectable by a user of the system, each visit outline modifying a data input field in one of the first, second and third screens when selected (Lavin; col. 2, lines 52-64).

C. As per new claim 24, Lavin discloses the system of claim 23, wherein the system requires the user of the system to input data in a modified data input field (Lavin; col. 2, lines 13-17).

D. As per new claim 26, Lavin discloses the system of claim 22, wherein the graphical user interface further includes an All Normal structure to input data having normal patient parameters into the screens (Lavin; col. 12, lines 38-50).

E. As per new claim 27, Lavin discloses the system of claim 22, further comprising a data repository including genogramatical data, the graphical user interface communicating with the data repository (Lavin; col. 7, line 62 to col. 8, line 8, fig. 10).

F. As per new claim 34, Lavin discloses a method of managing patient medical treatment data, comprising:

- i. recording medical treatment data of a patient into data fields in a medical record system graphical user interface (Lavin; col. 2, lines 39-51);
- ii. entering complaint specific information during a history and physical examination into the data fields (Lavin; col. 8, lines 42-58);
- iii. modifying automatically the format of the data field in response to the entered medical treatment and complaint specific data (Lavin; col. 9, lines 9-19);
- iv. assessing the patient in response to the medical treatment and complaint specific data (Lavin; col. 9, lines 30-35); and
- v. making medication orders in response to the medical treatment and complaint specific data through an order entry screen (Lavin; col. 9, lines 41-57, col. 14, lines 12-24).

G. As per new claim 35, it is a method claim, which repeats the same limitations of new claim 22, the corresponding system claim, as a series of process steps as opposed to a collection of elements. Since the teaching of Lavin discloses the structural elements that constitute the system of claim 22, it is respectfully submitted that they perform the underlying process steps, as well. As such, the limitations of claim 35 are rejected for the same reasons given above for claim 22.

Art Unit: 3626

H. As per new claim 37, Lavin discloses the system of claim 22, further comprising a medication pop-up tool accessible from the third screen facilitating entry of medication orders (Lavin; col. 13, line 60 to col. 14, line 11).

I. As per new claim 38, Lavin discloses the system of claim 37, wherein the pop-up tool presents a list of available medications for selection by a user (Lavin; col. 13, line 60 to col. 14, line 11).

J. As per new claim 39, Lavin discloses the system of claim 38, wherein the pop-up tool enables the user of the system to record the history of a selected medication (Lavin; col. 13, line 60 to col. 14, line 11).

K. As per new claim 40, Lavin discloses the system of claim 38, wherein the pop-up tool prompts the user to input data for a new medication (Lavin; col. 14, lines 12-23).

L. As per new claim 43, Lavin discloses the system of claim 24, further comprising add-on notations that can be attached to any element of a visit outline to accommodate data entry regarding exceptional situations (Lavin; col. 11, lines 17-35).

M. As per new claim 44, Lavin discloses the system of claim 24, wherein the system presents a pre-defined set of choices contained in the outline for selection by a user (Lavin; col. 9, lines 20-35).

N. As per new claim 45, Lavin discloses the system of claim 24, further comprising pop-up tools for inputting data (Lavin; col. 9, lines 58-60).

O. As per new claim 46, Lavin discloses the system of claim 37, further comprising a pop-up tool for data entry, the pop-up tool facilitating the annotation of a graphical image using text, drawing tools, or both (Lavin; col. 9, lines 58-60, col. 11, lines 17-29).

P. As per new claim 49, Lavin discloses the system of claim 23, wherein the system dynamically modifies an on-screen presentation of the visit outline on the second screen in response to a user making a selection from a pre-defined set of choices contained in the outline (Lavin; col. 2, lines 52-64).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 25, 28-33, 36, 47, 48, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al. (hereinafter Lavin) (U.S. Patent No. 5,772,585) in view of Campbell et al. (hereinafter Campbell) (U.S. Patent No. 6,047,259).

A. As per new claim 25, Lavin discloses the system of claim 22.

Lavin fails to expressly teach a carepath module for suggesting a particular medical treatment in response to the data input.

However, this feature is well known in the art, as evidenced by Campbell.

In particular, Campbell discloses a carepath module for suggesting a particular medical treatment in response to the data input (Campbell; abstract, col. 17, lines 46-60, fig. 10).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Campbell with the motivation of obtaining a list of the therapy items for the treatment protocol corresponding to the selected diagnosis (Campbell; col. 17, lines 54-56).

B. New claim 28 discloses the same limitations as claim 25, therefore rejected for the same reasons given above in the rejection of claim 25.

C. New claims 29-33 disclose the same limitations of claims 22, 23, 24, 26 and 27 respectively, and they are dependant of claims 28, 29, and 30. Therefore they are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin in view of Campbell for the same reasons given in the rejection of claim 22, 23, 24, 26 and 27.

D. As per new claim 36, Lavin discloses a method of managing patient medical treatment data, comprising:

- i. providing a graphical user interface including an automated carepath module for receiving medical treatment data by a user of the system (Lavin; col 2, lines 29-51, col. 5, lines 48-56 and col. 9, lines 30-35);



- ii. prompting for additional relevant medical data by the carepath module in response to the received medical treatment data (Lavin; col. 11, lines 61-66).

The obviousness of modifying the teaching of Lavin to include a carepath module for suggesting a particular medical treatment in response to the data input (as taught by Campbell) is as addressed above in the rejection of claim 25 and incorporated herein.

E. As per new claim 47, Lavin discloses the system of claim 37,

Lavin fails to expressly teach mark locations on a graphical image of a body system. However, this feature is well known in the art, as evidenced by Campbell.

In particular, Campbell discloses mark locations on a graphical image of a body system (Campbell; col. 1, lines 50-60, col. 15, lines 56-64, col. 16 lines 4-12, fig. 7).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Campbell with the motivation of recording medical observations in database file with each user click (Campbell; col. 16, lines 4-12).

F. New claims 48 and 50 repeat the same limitations of claim 47, therefore rejected for the same reasons given in the rejection of claim 47 above and incorporated hereinwith.

Art Unit: 3626

6. Claims 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al. (hereinafter Lavin) (U.S. Patent No. 5,772,585) in view of Ramsay et al. (hereinafter Ramsay) (U. S. Patent No. 5,915,971).

A. As per new claim 41, Lavin discloses the system of claim 38.

Lavin fails to expressly teach a calculator tool to calculate medication dosage. However, this feature is well known in the art, as evidenced by Ramsay.

In particular, Ramsay discloses a calculator tool to calculate medication dosage (Ramsay; col. 2, lines 8-19, col. 3, lines 59-67, col. 6 lines 59-63, fig. 19).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Ramsay with the motivation of determining an appropriate drug dosage (Ramsay; col. 1, lines 65-66).

B. New claim 42 repeats the same limitations of claim 41, therefore rejected for the same reasons given in the rejection of claim 41 above and incorporated hereinwith.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 22-36 have been considered but are moot in view of the new ground(s) of rejection.

8. In response to Applicant's argument with respect to the related PCT application in which claims 22-36 were determined to be novel and have inventive steps, Examiner respectfully submits that the PCT IPER does not appear to consider the references currently applied by the Examiner.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.


12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBC

DBC  
Art Unit 3626  
11/30/2006

  
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SUPERVISORY PATENT EXAMINER